

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DENC, LLC,)	
)	
Plaintiff,)	
)	
v.)	1:18-CV-754
)	
PHILADELPHIA INDEMNITY)	
INSURANCE COMPANY,)	
)	
Defendant.)	

JUDGMENT

This civil action came before the Court on the parties' motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. On October 15, 2019, the Court granted the plaintiff's motion for partial summary judgment as to its claims for declaratory judgment and breach of contract, and denied the defendant's motion for summary judgment as to plaintiff's declaratory judgment and breach of contract claims. Doc. 44.

On December 5, 2019, the Court granted the defendant's motion for summary judgment as to plaintiff's common law bad faith claim and as to plaintiff's Chapter 75 claim asserting violations of N.C. Gen. Stat. § 58-63-15(11)(a), (d), and (g), and denied the defendant's motion for summary judgment as to plaintiff's breach of the covenant of good faith and fair dealing claim. Doc. 49. The Court granted the plaintiff's motion for partial summary judgment as to plaintiff's Chapter 75 claim asserting a violation of § 58-

63-15(11)(n), and denied the plaintiff's motion for summary judgment as to the remaining alleged violations of Chapter 75. *Id.* On December 23, 2019, the parties stipulated to the dismissal of the plaintiff's breach of the covenant of good faith and fair dealing claim, without prejudice. Doc. 58.

On January 16, 2020, the Court granted summary judgment in favor of the plaintiff on its claim that certain expenses are a covered loss, and granted summary judgment in favor of the defendant that plaintiff is entitled to only nominal damages on plaintiff's Chapter 75 claim. Doc. 73. The Court denied summary judgment as to the amount of the breach of contract damages, but the parties stipulated in open court that a reasonable fact-finder could find that the defendant actually damaged plaintiff in the amount of \$400,007.79 for its breach of contract, excluding interest & costs. *Id.*

On April 13, 2020, the Court granted in part the plaintiff's motion for attorneys' fees and costs, determining that the defendant shall pay the plaintiff the sum of \$221,455.49 for attorneys' fees and costs pursuant to N.C. Gen. Stat. § 75-1.16. Doc. 79.


IT IS ORDERED, ADJUDGED, AND DECREED that, pursuant to the above, and Rules 54 and 56 of the Federal Rules of Civil Procedure, the plaintiff DENC, LLC have judgment against and recover from the defendant Philadelphia Indemnity Insurance Company (1) the sum of \$400,007.79 for its damages on its breach of contract claim, (2) the sum of \$1.00 on its Chapter 75 claim, and (3) the sum of \$221,455.49 for its attorneys' fees and costs in connection with its Chapter 75 claim. Plaintiff DENC, LLC may submit

its form seeking any additional allowable costs with the Clerk following entry of judgment pursuant to the Local Rule 54.1.

The Court awards prejudgment interest at the rate of eight percent (8%) per annum, *see* N.C. Gen. Stat. § 24-1 (2017), to be paid on the damages in connection with the breach of contract claim (\$400,007.79) from the date of the defendant's breach of the insurance contract on February 19, 2018, *see* Doc. 34-14; *Aills v. Nationwide Mut. Ins. Co.*, 88 N.C. App. 595, 598, 363 S.E.2d 880, 883 (1988) (citing N.C. Gen. Stat. § 24-5), until the date of the entry of this judgment. The total prejudgment interest as of April 23, 2020 is \$69,612.31.

Post judgment interest is payable on this money judgment pursuant to 28 U.S.C. § 1961.

This the 24th day of April, 2020.


UNITED STATES DISTRICT JUDGE